

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOSEPH RANDONE,

Petitioner,

v.

STEVEN JOHNSON,

Respondent.

Civil Action No. 21-15265 (MCA)

MEMORANDUM AND ORDER

This matter comes before the Court on Petitioner Joseph Randone’s (“Petitioner”) request to file an overlength brief. (*See* ECF No. 13.) By Memorandum and Order dated September 27, 2024, the Court directed Respondents to supplement the record in this matter and send copies of their Answer and the supplemental record to Petitioner within 14 days.¹ (ECF No. 11.) Because it determined that the Petition is untimely, the Court provided Petitioner with 45 days to submit his reply brief and directed Petitioner to show cause as to why his Petition should not be dismissed as untimely under The Antiterrorism and Effective Death Penalty Act (“AEDPA”) of 1996, Pub. L. No. 104-132, tit. I, § 101 (1996). (*Id.*) The Court directed the Clerk of the Court to administratively terminate this action pending completion of the record. (*Id.*)

On October 7, 2024, Respondents supplemented the record and served a copy on Petitioner. On or about December 18, 2024, Petitioner filed a motion to file an overlength brief but did not attach the proposed brief.² (ECF No. 13 at 4.) Because Petitioner did not include the brief with

¹ The Court also directed the Clerk of the Court to correct Petitioner’s address.

² In his certification, Petitioner also contends that he filed two motions for a stay in 2023 and a motion for an extension of time to respond to the state’s answer in November 2024, but the Court has no record of these motions and does not credit these allegations absent supporting evidence.

his filing, the Court liberally construes Petitioner to request an extension of time to file an overlength brief. The Court grants the request and directs Petitioner to submit his arguments and evidence in support of equitable tolling no later than May 15, 2025. If Petitioner fails to submit his response by this date, the Court will dismiss the Petition as untimely.

IT IS, THEREFORE, on this 4th day of April 2025,

ORDERED that the Clerk of the Court shall mark this matter as **OPEN**; and it is further

ORDERED that Petitioner's request for an extension of time to submit an overlength brief (ECF No. 13) is **GRANTED**; and it is further

ORDERED that Petitioner is hereby notified that the Court intends to dismiss this matter as untimely under the AEDPA unless Petitioner can show that he is entitled to equitable tolling of the AEDPA limitations period; and it is further

ORDERED that by **May 15, 2025**, Petitioner shall submit to the Court all facts and evidence in support of equitable tolling that he wishes the Court to consider; and it is further

ORDERED that all facts Petitioner provides in support of equitable tolling must be sworn under penalty of perjury; and it is further

ORDERED that Petitioner shall also provide any documents showing that he retained an attorney to file his PCR and copies of any communications he had with that attorney during the period between the conclusion of his direct appeal and the filing of his PCR; and it is further

ORDERED that if Petitioner fails to respond to this Order or fails to submit sufficient facts and evidence in support of equitable tolling, the Court will dismiss the Petition as untimely for the reasons stated in its Memorandum and Order dated September 27, 2024; and it is further

ORDERED that for docket management purposes, the Court directs the Clerk of the Court to **ADMINISTRATIVELY TERMINATE** this matter pending the completion of the record; and it is further

ORDERED that once the record is complete, the Court will direct the Clerk of the Court to reopen this matter, and the Court will issue its written decision; and it is further

ORDERED that the Clerk of the Court shall send a copy of this Memorandum and Order to Petitioner at the address on file.

A handwritten signature in blue ink, appearing to read 'M. Cox Arleo', is positioned above a horizontal line.

Madeline Cox Arleo, District Judge
United States District Court